

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

MKB MANAGEMENT CORP., et al.,

Plaintiffs,

vs.

BIRCH BURDICK, et al.,

Defendants.

Case No. 1:13-cv-071

**DECLARATION OF KATHRYN L. EGGLESTON, M.D. IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Kathryn L. Eggleston, M.D., declares and states the following:

1. I am a physician licensed to practice in North Dakota, and a Plaintiff in this case.
2. I am a board-certified family medicine physician and have been providing reproductive health care for women, including abortion and family planning services, for over a decade. In addition, I have provided full-spectrum family medicine care, including obstetric and prenatal care and gynecologic services, to numerous patients. I graduated from the Medical College of Wisconsin with an M.D. in 1996 and from Colorado State University with a B.S. in Biological Science in 1991. I completed my residency at the University of Wisconsin's Eau Claire Family Medicine Residency Program in 1999. I have trained residents and medical students in reproductive health care methods, including medication and surgical abortion.
3. The opinions provided herein, which are held to a reasonable degree of medical certainty, are based upon my fourteen years of experience as a family medicine physician

and reproductive health care provider, and the knowledge I have obtained through my education, training, teaching experience, discussions with colleagues, attendance at conferences, and ongoing review of the relevant professional literature. A copy of my curriculum vitae, which summarizes my background, experience, and professional activities, is attached as Exhibit A.

4. I submit this affidavit in support of Plaintiffs' Motion for Summary Judgment.

Red River Women's Clinic

5. Since 2008, I have been the medical director of Red River Women's Clinic in Fargo, North Dakota.

6. Pregnancy is commonly measured by the number of days that have passed since the first day of a woman's last menstrual period ("lmp"). The Clinic provides abortions to women from about five weeks lmp through about sixteen weeks lmp.

7. I provide abortions at the Clinic one day a week, about forty-five to fifty weeks each year.

8. Red River Women's Clinic's protocols include an ultrasound for all abortion patients, which is important for dating the pregnancy and determining where the pregnancy is located within the uterus. A physician needs to confirm an intrauterine pregnancy and gestational age in order to safely provide an abortion.

9. The ultrasound is also used to detect fetal cardiac activity, which is detectable by about 6 weeks lmp on average, and sometimes a few days earlier.

10. The Clinic does not typically perform abortions before five weeks lmp because, due to the pregnancy's extremely small size, it may not be possible to confirm the

location of the pregnancy in the uterus, even using vaginal ultrasound. If the location of the pregnancy is not confirmed, it can be dangerous to perform an abortion. Also - most patients do not present to the clinic at this gestational age due to the fact not are not aware they are pregnant.

11. North Dakota law defines viability as “the ability . . . to live outside the mother’s womb, albeit with artificial aid.” N.D. Cent. Code. § 14-02.1-02(14). A fetus does not become viable until approximately twenty-four weeks lmp.

12. Many women do not know they are pregnant until after 6 weeks lmp. Typically, only women who have regular menstrual periods, keep close track of them, and take a pregnancy test promptly after missing a period at four weeks lmp will know they are pregnant by 6 weeks.

13. Since the Clinic only performs abortions one day per week, and cannot safely perform abortions before five weeks lmp, the bill will effectively limit women’s ability to obtain an abortion to a single day during their pregnancy’s fifth week.

14. Most of the women who currently receive abortions from the Clinic at or after 6 weeks lmp would probably be unable to schedule their abortions early enough to avoid the ban, due to a combination of some or all of the following reasons: they will not yet have realized that they are pregnant; they will be unable to gather the necessary funds or obtain transportation in sufficient time to reach the Clinic; they will be unable to take the necessary time off work with such short notice; they will be waiting through the delays imposed by the laws of the State of North Dakota; or they will need more time than the

few days allotted to them to make the important decision of whether or not to have an abortion.

15. In my experience, women often consider many factors in deciding whether or not to have an abortion. These can include, among other things, their ability to care for existing children, the impact of parenthood on their educational goals, and the impact of parenthood on their ability to work and pursue a career. For most women, the risks associated with abortion and the relative risks of abortion compared to carrying a pregnancy to term, are only one factor among many that they consider.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 11th, 2013



KATHRYN L. EGGLESTON, M.D.

Exhibit A

Eggleston CV

KATHRYN L. EGGLESTON, M.D.

Associate Medical Director 10/2010 - present

Planned Parenthood MN, ND, SD

Coordinate patient care with and support mid level family planning clinicians. Review patient care and medical protocols. Provide reproductive health care for women including medical and surgical abortion, colposcopy services and family planning services including Implanon and IUD insertion and management.

Family Medicine Physician, 2004 – present

Medical Director, 7/2008 - present

Red River Women's Clinic, Fargo, ND

Provide reproductive health care for women including medical and surgical abortion in addition to family planning services including Implanon and IUD insertion and management. Additional responsibilities include development, implementation and clinical oversight of patient care and medical protocols, ensuring adherence to NAF standards of care and adherence of clinical quality standards. Provide oversight of medical staff including physicians and mid level clinicians.

Family Medicine Physician, 2003 – present

Women's Health Center, Duluth, MN

Provide reproductive health care for women including medical and surgical abortion and family planning services including Implanon and IUD insertion and management.

Family Medicine Physician, 2003 – 2/2012

Midwest Health Center for Women, Minneapolis, MN

Provided reproductive health care for women including medical and surgical abortion, colposcopy services and family planning services including Implanon and IUD insertion and management. Additional responsibilities included development and implementation of patient care protocols; coordinate patient care with and support mid level providers; train residents and medical students; train and coordinate physician volunteers.

Family Medicine Physician, 8/2007 – 5/2010

Volunteer Family Medicine Physician 5/2010 - 7/2010

Neighborhood Health Source, Sheridan Clinic, Minneapolis, MN

Practiced full spectrum outpatient family medicine in a community clinic. Additional responsibilities include colposcopy services, monitoring cervical cancer screening standards and adherence and family planning services including Implanon and IUD insertion and management.

Family Medicine Physician, 2/2004 – 7/2007

Indian Health Board of Minneapolis, Minneapolis, MN

Practice included full spectrum outpatient family medicine including prenatal care and gynecologic services in a community clinic. Clinic services provided to Native Americans and surrounding community, including many ethnic and minority populations. Responsibilities include medical director of Healthy Start program; coordinating new "open-access" office visit scheduling system; training and providing of first trimester OB ultrasound; supervising cervical

and breast cancer screening; colposcopy services; reproductive health care services including IUD insertion and management.

Family Medicine Physician, 2000 – 2003

Robbinsdale Clinic, P.A., Robbinsdale, MN

Practiced full spectrum family medicine including inpatient and outpatient medicine, reproductive health care including medical and surgical abortion.

Urgent Care Physician, 1999 - 2004

Marshfield Clinic, Eau Claire, WI

Acute care visits for all ages.

Family Medicine Physician, 1999 – 2000

Marshfield Clinic, Eau Claire, WI

Practiced full spectrum Family Medicine including inpatient medicine, outpatient medicine and obstetrics.

Education

University of Wisconsin, Eau Claire, Wisconsin
Eau Claire Family Medicine Residency, June 1999

Medical College of Wisconsin, Milwaukee, Wisconsin
Doctor of Medicine, May 1996

Colorado State University, Fort Collins, Colorado
Bachelor of Science, Biological Science, December 1991

Licensure and Certification

Diplomate of the American Board of Family Medicine, 1999 – present
State of Kansas, 2013-present
State of Minnesota, 2000 - present
State of North Dakota 2003 – present
State of South Dakota 2010 - present
State of Wisconsin, 1997 – present
State of Alaska 2004 - 2010
Drug Enforcement Agency, 1998 - present
Advanced Cardiac Life Support Provider, 1996 – present

Professional Memberships

American Academy of Family Medicine
Physicians for Reproductive Choice

Hospital Privileges

Abbott Northwestern Hospital, Minneapolis, MN
Regions Hospital, St. Paul, MN